



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 20, 1998

Mr. Michael J. Adams  
City Attorney  
City of San Augustine  
301 South Harrison  
San Augustine, Texas 75972

OR98-0994

Dear Mr. Adams:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 114571.

The City of San Augustine (the "city") received a request for the audit of the San Augustine Police Department that was conducted by the Deep East Texas Council of Governments. You contend that this information is excepted from disclosure pursuant to sections 552.103 and 552.111 of the Government Code.

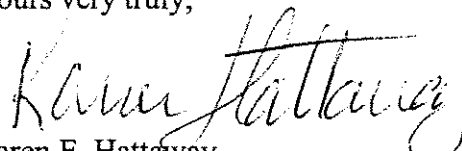
Section 552.103(a) of the Government Code excepts from disclosure information relating to litigation to which a governmental body is or may be a party. The governmental body has the burden of providing relevant facts and documents to show that section 552.103(a) is applicable in a particular situation. In order to meet this burden, the governmental body must show that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. You have demonstrated that litigation is pending against the city. *Davis v. City of San Augustine*, No. 9:97CV0427 (E.D. Tex. filed Dec. 23, 1997). Having reviewed the audit, we agree that it relates to the pending litigation. Thus, we conclude that the city may withhold the audit from disclosure pursuant to section 552.103(a).

We note that if the opposing party in the pending litigation has seen or had access to any of the information in the audit, there would be no justification for withholding that information from disclosure pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982).

Additionally, the applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).<sup>1</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 114571

Enclosures: Submitted documents

cc: Ms. Cathy Frye  
The Beaumont Enterprise  
P.O. Box 3071  
Beaumont, Texas 77704  
(w/o enclosures)

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<sup>1</sup>Because we are able to resolve this matter under section 552.103, we need not address your section 552.111 claim at this time.